REMARKS

Claims 1-10 are pending in the instant application.

Claims 1, 2 and 6 have been amended. Support for these amendments is provided in the specification at page 5, lines 23 through 32 and page 13, line 24-26. No new matter is added by these amendments.

Claims 1-10 have been subjected to a Restriction Requirement as follows:

Group I, claims 1-4, drawn to a population of mammalian CD44 immunoreactive precursor cells that can generate astrocytes, a pharmaceutical compositions comprising said cells; and a method for isolating the same; and

Group II, claims 5-10, drawn to a method of treating neural cells comprising administering to said damaged cells a pharmaceutical composition comprising a population of mammalian CD44 immunoreactive precursor cells that can generate astrocytes.

The Examiner suggests that Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1, because under Rule 13.2, they lack the same or corresponding special technical features. The Examiner has acknowledged that Groups I and II share the technical feature of CD44 immunoreactive mammalian precursor cells that generate

astrocytes. However, the Examiner suggests that that this is not a special technical feature over the art because Woodbury et al. (J. Neurosci. Res. 61:364-370;2000), discloses rat and human bone marrow stromal cells that can be expanded in vitro and differentiated into neuronal cells. The Examiner suggests that, while the cells do not express GFAP (second column, page 367), they are positive for CD44 expression (second column, page 365), and can differentiate into astrocytes when injected into the lateral ventricles of neonatal mice (second column, page 364).

Applicants respectfully traverse this Restriction Requirement.

At the outset, it is respectfully pointed out that the Examiner's suggestion that "the inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, directly contradicts the International Search Report and the International Preliminary Examination Report issued in the PCT application of which this case is the U.S. National Stage wherein all claims were searched and examined for patentability.

Further, Applicants have amended claims 1 and 2 in accordance with teachings at page 5, lines 23-32, to state

that the population of mammalian astrocyte restricted precursor cells is isolated from mammalian embryonic or fetal tissue, mammalian embryonic stem (ES) cell cultures, or glial restricted precursor cells, thus clearly distinguishing the present invention from teachings of Woodbury relating to cells isolated from bone marrow stromal cells.

Finally, MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of the prior art relating to pending claims 1-10 has already been performed in the corresponding PCT application. Thus, there is clearly no burden placed upon the Examiner by including all claims in this case, since the full claim set was already searched and examined in the PCT application.

Accordingly, reconsideration and withdrawal of this Restriction Requirement and rejoinder of all pending claims is respectfully requested.

In an earnest effort to be completely responsive, however, Applicants elect Group I, claims 1-4, with traverse.

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Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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